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3 UNITED STATES DISTRICT COURT
4 DISTRICT OF NEVADA

5 JAY STEPHAN,) 3:10-CV-00595-ECR-VPC
6)
7 Plaintiff,)
8 vs.)
9 SIERRA PACIFIC POWER COMPANY) ORDER
and John & Mary Does, et al.,)
10 Defendants.)
11 _____)

12 Defendant has filed a Motion (#9) for judgment on the
13 pleadings as to all claims in Plaintiff's complaint. If the motion
14 is granted as to the federal claims such dismissal would likely be
15 with prejudice.

16 Plaintiff in response has filed a Motion (#17) to dismiss his
17 federal claims without prejudice and to remand the action to the
18 state court from which it was previously removed. Defendant,
19 among other things, opposes the dismissal by Plaintiff as
20 piecemeal.

21 The essence of one possible key issue then is whether the
22 federal claims should be dismissed with or without prejudice. If
23 the Plaintiff's federal claims have sufficient merit to survive
24 Defendant's Motion for Judgment on the Pleadings (#9), likely any
25 dismissal granted based on Plaintiff's Motion (#17) to dismiss the
26 federal claims should be without prejudice. If the Plaintiff's
27 federal claims do not have sufficient merit on that basis, they
28 should likely in any event be dismissed with prejudice whether on

1 the basis of Plaintiff's Motion (#17) or on the basis of
2 Defendant's Motion (#9).

3 In our Order (#20), we previously granted a stay of
4 Plaintiff's obligation to respond to Defendant's Motion (#9) until
5 we decided Plaintiff's Motion to Dismiss (#17). It now appears to
6 the Court that the pending Motion (#9) of Defendant should, on the
7 above stated basis, be decided first because such decision may
8 resolve this pending issue as to whether Plaintiff's federal claims
9 should be dismissed with or without prejudice.

10 As a matter of saving judicial resources, Plaintiff's response
11 to the Defendant's Motion (#9) should also address Defendant's
12 Motion (#9) with respect to the state claims as well as the federal
13 claims.

14 **IT IS, THEREFORE, HEREBY ORDERED** that Plaintiff shall have
15 twenty-one (21) days within which to respond to Defendant's Motion
16 for Judgment on the Pleadings (#9). Defendant will thereafter have
17 fourteen (14) days within which to file a reply in support of the
18 motion.

19 **IT IS FURTHER ORDERED** that our Order (#20) is **VACATED**.
20

21 Dated this 23rd day of December, 2010.

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23 _____
24 UNITED STATES DISTRICT JUDGE
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